

IRA DANIEL TOKAYER, ESQ. (IT-4734)
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CERVECERIA MODELO, S.A. DE C.V. : 07 CV 7998 (HB)
and MARCUS MODELO S.A. DE C.V., :
Plaintiffs, :
-against- : NOTICE OF MOTION IN LIMINE
USPA ACCESSORIES LLC d/b/a :
CONCEPT ONE ACCESSORIES, :
Defendant. :
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PLEASE TAKE NOTICE that upon the annexed Declaration of Ira Daniel Tokayer, Esq., dated August 4, 2008, and the exhibits attached thereto, and upon all the papers and prior proceedings had herein, defendant will move this Court at the Courthouse, 500 Pearl Street, New York, New York, on August 11, 2008, at 9:30 a.m., or as soon thereafter as counsel can be heard, for an Order in Limine: (i) pursuant to Fed. R. Civ. P. 16(f) and 37, precluding so much of the testimony of Ronald Vollmar, a purported expert witness, relating to plaintiffs' damages on the grounds that his report was belatedly served after the close of business on August 1, 2008, in violation of Rule 26 and the court's Scheduling Order, dated November 15, 2008; and (ii) permitting defendant to conduct the deposition of Spencer's Gifts

LLC (by Steven Silverstein, Anthony Graziosi and/or Beth Bowman Taylor) and, pursuant to Fed. R. Civ. P. 32, use the testimony at trial on the ground that the individual witnesses are unavailable for trial and are more than 100 miles from the courthouse; and (iii) for such other and further relief as the court may deem just and proper.

Dated: New York, New York
August 4, 2008

/s/
IRA DANIEL TOKAYER, ESQ.
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(212) 695-5250

MOT in limine - NOT 02.wpd